
Chapter 21.48 – Standards for Specific Land Uses

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21.48.010 – Purpose

This chapter provides additional site planning, development, and operational standards for a variety of specified land uses.

21.48.025 – Visitor Accommodations

- A. **Applicability.** The provisions of this section shall apply only to applications involving the development of new visitor accommodations or the demolition, conversion, closure, or cessation of existing visitor accommodations.
- B. **Considerations.** In reviewing an application for new visitor accommodations, the reviewing body shall consider the following:
1. The development's ability to protect, encourage, or provide lower-cost visitor-serving and recreational facilities on the project site and in the immediately adjacent area; and
 2. The development's ability to provide public recreational opportunities; and
 3. The range of room types and room rates in the City's Coastal Zone.
- C. **Protection of Existing Low Cost Visitor Accommodations.**
1. **Low, Moderate, and High Cost Visitor Accommodations Defined.** For purposes of this subsection, visitor accommodations shall be defined as low, moderate, or high cost as follows:

Low Cost – The average daily room rate is 80 percent or lower of the median average daily room rate in the City's Coastal Zone.

Moderate Cost – The average daily room rate is 81 percent to 120 percent of the median average daily room rate in the City's Coastal Zone.

High Cost – The average daily room rate is above 120 percent of the median average daily room rate in the City's Coastal Zone.

2. **Impact Analysis Required.** An analysis a development's impact on low cost visitor accommodations shall be required for any applications involving:

- a. The demolition, conversion, closure, or cessation of existing low cost visitor accommodations; or
- b. The development of new high cost visitor accommodations; or
- c. The development of a limited-use overnight visitor accommodations (LUOVA).

The impact analysis shall be prepared at the applicant's expense and include recommendations to mitigate any impacts to low cost accommodations. If the development involves the demolition of existing visitor accommodations, the impact analysis shall determine the feasibility of rehabilitating the units.

3. **Mitigation.** If the reviewing body determines that the development will impact lower-cost visitor-serving accommodations, mitigation shall be provided commensurate with the impact. Mitigation measures may include, but not be limited to, providing low cost visitor accommodations or payment of an in-lieu fee.

4. **Rate Control and Income Eligibility Requirements Prohibited.** In no event shall a development as mitigation be required:

- a. To provide overnight room rental be fixed at an amount certain; or
- b. To establish any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

- D. **Conversion to LUOVA Prohibited.** The conversion of any hotel or motel unit for which a certificate of occupancy has been issued on or before July 14, 2009, to a limited-use overnight visitor accommodations (LUOVA) shall be prohibited, except as provided in subsection (1) of this subsection.

1. **Exceptions to Conversion Prohibitions.** A LUOVA project shall be permitted on the hotel resort property located at 1107 Jamboree Road, such to the following requirements:

- a. LUOVA units shall be provided together with traditional overnight, hotel visitor accommodations;
- b. A minimum of three hundred and ninety-one (391) traditional hotel units shall remain available for transient overnight use by the general public year

round and no more than eighty-eight (88) of the total four hundred and seventy-nine (479) units planned may be LUOVA units; and

- c. Owner use of LUOVA units shall not exceed a maximum of ninety (90) days per calendar year with a maximum of twenty-nine (29) days of use during any sixty (60) day period; and
- d. LUOVA units shall be maintained by the management of the hotel facility and shall be remain available for transient overnight use by the general public when not occupied by the owner.

E. **Tsunami Information and Evacuation Plans.** Visitor-serving accommodations in areas identified as susceptible to tsunami inundation shall be required to provide guests with information on tsunami information and evacuation plans.

21.48.035 – Newport Harbor

A. **Priority of Uses.** Priority shall be given to coastal-dependent uses over other uses on or near the shoreline. When appropriate, coastal-related developments shall be accommodated within reasonable proximity to the coastal-dependent uses they support.

B. **Development Standards.** Where applicable, development in Newport Harbor shall:

1. Protect, and where feasible, expand and enhance vessel-launching facilities in Newport Harbor;
2. Protect, and where feasible, expand and enhance low-cost public launching facilities, such as trailer launch ramps, boat hoists, commercial landing facilities, and organized recreational boating launch facilities;
3. Provide a variety of berthing opportunities reflecting State and regional demand for slip size and affordability throughout Newport Harbor;
4. Protect, and where feasible, enhance and expand marinas and dry boat storage facilities;
5. Protect shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor;
6. Protect, and where feasible, enhance and expand dinghy docks, guest docks at public facilities, yacht clubs and at privately owned marinas, restaurants and other appropriate locations;
7. Protect, and where feasible, expand and enhance facilities and services for visiting vessels, including public mooring and docking facilities, dinghy docks, guest docks, club guest docks, pump-out stations and other features through City, County, and private means;
8. Protect, and where feasible, expand and enhance facilities necessary to support vessels berthed or moored in the harbor, such as boat haul-out facilities;

9. Protect, and where feasible, expand and enhance existing harbor support uses serving the needs of existing waterfront uses, recreational boaters, the boating community and visiting vessels;
10. Support private sector uses, such as vessel assistance, that provide emergency, environmental enhancement and other services that are not provided by the public sector and that are essential to the operation of a harbor;
11. Provide, expand and enhance, where feasible, existing recurring and year-round harbor special permits and special purpose uses such as boat shows and boating festivals, boat sales displays and delivery/commissioning facilities.

21.48.045 – Industrial Uses

This section provides standards for industrial uses.

- A. Priority shall be given to coastal-dependent and coastal-related industrial uses over other industrial uses in I districts on or near the shoreline. Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and allowed reasonable long-term growth.
- B. New hazardous industrial development shall be located away from existing developed areas, where feasible.

21.48.055 – Public Beaches

- A. **General.** Public beaches shall be protected as a means of providing free and lower-cost recreational opportunities.
- B. **Uses.** Land uses and development on public beaches shall be limited to public safety facilities, restroom facilities, showers, bikeways, walkways, public recreation facilities, and similar public facilities.
- C. **Parking.** Public parking shall be permitted provided there are no significant adverse impacts to public beaches or the public's right of access to the bay and ocean.
- D. **Dory Fleet.** The historic Dory Fishing Fleet shall be permitted to be launched and stored and to sell fish on the public beach adjacent to Newport Pier.

21.48.065 – Environmentally Sensitive Habitat Areas

Uses within environmentally sensitive habitat areas (ESHA) shall be limited to only those uses that are dependent on such resources.

21.48.075 – Wetlands and Deepwater Areas

Uses within open coastal waters, wetlands, and estuaries shall be limited to only those uses specified in Section 21.30B.040 (E) (2).

21.48.085 – Public Trust Lands

- A. **Applicability.** Public Trust Lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the Public Trust at any time.
- B. **Limits on Uses.** Public Trust Lands are subject to the Common Law Public Trust, which limits uses to navigation, fishing, commerce, public access, water-oriented recreation, open space and environmental protection.
- C. **Exceptions.** State legislation has modified public trust restrictions for the historic tidelands in Beacon Bay, the Balboa Bay Club, and Harbor Island.
 - 1. **Beacon Bay.** The Beacon Bay Bill (Chapter 74, Statutes of 1978) and Senate Bill 573 (Chapter 317, Statutes of 1997) allow the residential lots of Beacon Bay located within State tidelands to be leased for residential purposes until June 27, 2043.
 - 2. **Balboa Bay Club.** The Beacon Bay Bill (Chapter 74 of the Statutes of 1978) and Assembly Bill 3139 (Chapter 728, Statutes of 1994) allow Parcel D of the Balboa Bay Club to be leased for residential purposes until December 31, 2044.
 - 3. **Harbor Island.** Chapter 715, Statutes of 1984 allow the filled or reclaimed land on Harbor Island to be leased for non-permanent recreational and landscaping purposes.
- D. **Leases.** The following restrictions shall apply to leases of public trust lands:
 - 1. **Use of Leases.** In the event public trust lands are used for commercial purposes by an entity other than the City, the City shall use leases to implement the provisions of this Article. The City shall transition any public trust lands currently on annual permits to leases unless the City makes findings that a permit is more appropriate than a lease.
 - 2. **Land Use.** Land uses shall be consistent with the public trust land use restrictions. Priority shall be given to the provision of coastal-dependent uses.
 - 3. **Public Access.** Public access shall be provided in a manner consistent with Chapter 21.30A (Public Access and Recreation).
 - 4. **Revenue.** Rental rates in the leases under this section shall be based upon the fair market value, as determined by an authorized appraiser, survey, or other appropriate valuation method, of the uses authorized in the lease or permit and as established by City Council.

21.48.095 – Temporary Uses and Special Events

- A. **Temporary Uses and Special Events Permitted.** Temporary uses and special events are permitted that meet all of the following criteria:
 - 1. The use or event will result in no adverse impact on opportunities for public use of

or access to the area due to the proposed location and or timing of the use or event either individually or together with other temporary uses or special events scheduled before or after the particular;

2. There will be no direct or indirect impacts from the use or event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in this Implementation Plan;
3. The use or event has not previously required a coastal development permit to address and monitor associated impacts to coastal resources.

B. **Imposition of Conditions.** Conditions may be imposed when necessary to minimize impacts to public access, recreation and coastal resources.